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A Review of International Labour Conventions

by
John Mainwaring



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A Review of International Labour Conventions

by
John Mainwaring
Director
International Labour Affairs Branch
Canada Department of Labour

Hon. John Munro
Minister

W. P. Kelly
Acting Deputy Minister

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A REVIEW OF INTERNATIONAL LABOUR CONVENTIONS

Preface

The present study was undertaken as one of a series analysing the position of Canada with respect to Conventions and Recommendations of the International Labour Organization. It subsequently took on a broader purpose.

Noting that many of the 138 Conventions developed by the ILO are now out of date, and that many have been revised, the study suggests that a list needs to be developed of those that are still relevant in terms of modern social policy. Although such a project would obviously have to be undertaken by the ILO itself, if the Organization thought fit, the study does make tentative proposals as to which Conventions should be considered for inclusion in such a list.

It then examines the position of Canada with respect to the Conventions on this list, and finds that the Canadian position of compliance with ILO standards is substantially better than indicated by Canada's record of ratifications. Canada has ratified 26 of the 138 Conventions adopted by the ILO up to 1973; however, the study also suggests that only about 66 Conventions can be regarded as acceptable modern standards. Of these, Canada has ratified 20. Of the remaining 46, some are not applicable to Canada because they are aimed specifically at developing countries, and some contain requirements that are in other ways inappropriate to Canadian conditions. Detailed analysis of these Conventions is still being pursued by the International Labour Affairs Branch, but it appears to the author of the present study that perhaps about 30 of the Conventions not yet ratified by Canada constitute a valid target for ratification.

Although the responsibility for the analysis and the judgments made in this study is my own, I acknowledge the assistance in preparatory work of Howard Pammett, formerly Assistant Director of the Branch; J.K. Wanczycki, Chief of the International Standards Division; and J. Frendo-Azopardi, member of the International Standards Division.

John Mainwaring,
Director,
International Labour Affairs Branch.

INTRODUCTION

The International Labour Organization was established in 1919, with the objective of improving the conditions of labour. Over the years it has developed various methods of carrying out its mission, including the exchange of information at meetings and through publications, the conduct of research, and the provision of aid to developing countries.

Its best-known method, however, has been the development of agreed international standards concerning what is desirable in the way of labour conditions. These standards are adopted by the General Conference of the ILO which meets annually in Geneva and to which member countries send tripartite delegations, including worker and employer, as well as government members. The standards relate to such subjects as hours of work, safety, social security, employment policy, and certain basic human rights, including the right to organize and bargain collectively, equal pay for equal work, and protection against employment discrimination.

For this method of improving labour conditions to be successful, it is necessary that the international standards be applied within member countries through national legislation or other action. The standards adopted by the Annual Conference take the form of Conventions and Recommendations. Conventions are, in effect, draft international treaties. A member country that accepts the standard embodied in a Convention may signify its acceptance by ratifying the Convention. By so doing, a member assumes an obligation under international law to comply with its provisions.¹

It must be emphasized that the objective of the ILO is to improve labour conditions; the Organization's standard-setting activities are merely a method of moving toward the objective. During the early years of the ILO however, the objective and the method were virtually indistinguishable. In fact, the Constitution of the ILO, adopted in 1919 and revised extensively in 1946, devotes most of its provisions to standard-setting and mentions only briefly, and almost as though in passing, that the International Labour Office shall collect and distribute information, issue publications, and (in the amendment of 1946) provide assistance to governments for the framing of laws and the improvement of administrative practices.

Thus standard-setting has been generally thought of as the major activity of the ILO. And year by year, the International Labour Conference spends much the greater part of its time in enacting new

¹A country may also signify its acceptance of the standards embodied in a Recommendation, but there is no formal procedure for the ratification of Recommendations. In fact, a Recommendation is an international declaration of what is desirable with respect to a certain aspect of labour policy, but one that is not thought suitable or ripe for embodiment in a Convention which carries treaty-like obligations.

international labour standards, revising old ones, and scrutinizing the way in which member countries apply the Conventions they have ratified.

The record of achievement is worth examination. It has been impressive. By mid-1973, member countries of the ILO had registered close to 4,000 ratifications of Conventions, covering many aspects of labour and social policy. Each ratification represents a commitment by a member country to meet a particular standard of social policy. It also represents a commitment to international law.

Nevertheless, various criticisms are made of the ILO's standard-setting activities: that it is difficult to find standards relevant to both industrialized and developing countries; that the record of ratification of some important Conventions is inadequate; and that the purpose of removing international competition based on unfair labour standards is not in fact achieved.

In practice, today, the ILO devotes much the greater part of its financial resources to projects of aid to developing countries. In so doing it resembles other members of the United Nations family, such as UNESCO, the World Health Organization and the Food and Agriculture Organization. The general meetings of these organizations are largely devoted to planning and reviewing operational activities. This of course is not surprising, since the other organizations do not have legislative functions comparable to the standard-setting activities of the ILO.

The purpose of the present paper, however, is not to argue the respective advantages of standard-setting and operational activities as means of achieving the objective of improved labour conditions. There is in fact, little need for such debate, since the ILO has begun to solve the problem by developing "programs" with respect to the various subject areas that fall within its scope. Such programs seek to combine the various possibilities for action at the disposal of an international agency, so as to achieve specific results. The ILO can mobilize both standard-setting and operational activities — as well as research, missions of inquiry, expert meetings, and promotional activities — in a concerted effort to fulfil specific objectives, such as better national and regional employment policies, and improved standards of working conditions, social security, occupational safety and health, labour administration and so on.

It is fair to say then that although the ILO's basic objective of improving the conditions of labour remains as it was half a century ago, the means at its disposal for carrying out this objective are more varied than they used to be.

The ILO's standard-setting activities retain their importance, but must now be seen as playing their part in a broader effort than was formerly envisaged. Once the Organization's major function, these

standard-setting activities must now be seen as one means among others by which this international agency can make its contribution to improving human welfare.

It becomes desirable, then, to redefine the role that standard-setting should play in the context of the ILO's programs of action.

It would appear that in the future, as in the past, ILO Conventions should serve as targets for social action, and that the ratification of Conventions by member countries should serve as international indicators of progress. Traditionally the ILO has put considerable emphasis on the number of Conventions adopted by the Conference and the number of ratifications of Conventions by member countries. Rises in these totals have been regarded as indicative of the Organization's success.

Similarly, in theory at least, a country can examine the body of ILO instruments which made up the so-called International Labour Code, and measure its social progress by the number of Conventions it is able to ratify. The ILO facilitates this process by publishing periodically a Chart of Ratifications, showing which countries have ratified which Conventions.

In practice this process of assessing progress – for the ILO and for member countries – by the number of Conventions that have been ratified is not today as valid a criterion of social progress as it used to be. The reason is simple. Over the years, the ILO Conference has engaged in a continuing process of revising Conventions and replacing them with new instruments. For this and other reasons, many of the 138 Conventions so far adopted are out of date and of little or no value in terms of modern social policy. Thus, to measure a country's social progress by the total number of its ratifications is misleading. Many Conventions included in the total may be out of date, and the country may have ratified a large number of relatively unimportant instruments. Meanwhile another country may have substantially fewer ratifications, but the Conventions ratified may be relevant and significant.

And in fact, the very quantity of ILO Conventions seem to defeat the purpose of using them as a measure of social progress. Very few people, whether in labour, management or government circles, can possibly recall the names and numbers of 138 Conventions, and the significance of a country's action in dealing with them is diminished.

A more useful measure would be of the number of ratifications of those Conventions which represent the modern ILO view of desirable policy. To be able to make such a measure, it would be necessary to select from the present total of International Labour Conventions those that are still valid in terms of modern social policy and which can still be useful as a target for policy among the member countries of the ILO. Assessing the number of ratifications of such modern Conventions could make more sense as an indicator of social progress.

Were this approach to be followed, the relationship between the ILO's standard-setting activities and its other activities would fall into place. The ILO's Conventions and Recommendations would be recognized as targets for social policy. Technical assistance (among its other functions) would help a country achieve the position where ratification of a Convention became possible. And the success of the various activities that make up the individual ILO programs would be measured at least in part by the ability of member countries to ratify and comply with the requirements of the ILO Conventions whose subject matter falls within the framework of the program in question.

* * * * *

The difficulties for Canada as a federal state in ratifying ILO Conventions have been somewhat reduced (although by no means removed) by the development of more effective arrangements for federal-provincial consultation. Canada has so far ratified 26 Conventions. The present study began as an attempt to determine which of the remaining Conventions should be regarded as targets for ratification by Canada.

Subsequently, the study took on a broader purpose. What it seeks to do is to provide an overview of the ILO Conventions which taken together constitute the International Labour Code, so as to indicate:

- (a) which of the present Conventions are out of date and of little value in terms of modern social policy;
- (b) which of the present Conventions might be included in a "short list" which, with further revision, might form the basis for a modern International Labour Code;
- (c) what would be the elements in a modern Code to be built up on the present foundations, revising where necessary, and taking account of gaps that may need to be filled;
- (d) how Canada stands in relation to the Code.

This objective is ambitious, and the present study should be regarded as only a preliminary approach to a job that needs to be done more thoroughly and in greater depth. The Canadian Government has proposed to the ILO Governing Body that a review be undertaken related to the first three of the points listed above.

Corresponding with the four points, the present paper is divided into four parts.

Part I provides brief comments on the 138 Conventions adopted from 1919 to 1973, indicating which seem to be no longer useful and which might be placed on a "short list" for further consideration. The judgements made in this section should be regarded as indicative and subject to further discussion and review.

Part II consists of the “short list”, rearranged into subject areas.

Part III seeks to analyze the subjects covered in *Part II*, and to indicate the adequacy with which these subjects are dealt with in existing ILO Conventions (with some reference also to related Recommendations). It is intended to suggest the basic contents of a modern International Labour Code.

Finally, *Part IV* comments on the position of Canada with respect to the Conventions suggested for inclusion in a modern International Labour Code.

It will be noted that the analysis – and again it must be emphasized that the analysis is preliminary – produces a total of 38 “modern” Conventions of general application. In addition, there appear to be 28 “modern” Conventions applying to particular categories of workers. The total of 66 is still rather large, but it represents a more manageable total to work from than the present 138, and could probably be reduced by more stringent analysis.

There remains, however, the considerable problem of how to deal with the remaining Conventions. Countries that have ratified them continue to be bound by them, and the obligation incurred by ratification cannot easily be dissolved.

For Conventions regarded as no longer useful, there are perhaps two alternatives. The first might be to seek the abrogation of these Conventions. However, international law appears to provide no ready means for dissolving the obligations incurred with respect to such Conventions except that of denunciation by the ratifying country. The abrogation of such Conventions could therefore be a very long process. Moreover, many revised or out-of-date Conventions have achieved a substantial record of ratifications and retain a certain usefulness pending ratification by member countries of the revised modern standard.

An alternative, which seems more practicable, would be simply to place such Conventions in a separate category. They would remain in force with respect to countries that have ratified them but which have not yet ratified the revised modern standard: however, they would no longer be regarded as a *target* for ratification by countries that have not ratified them, and which prefer to aim at conformity with the modern ILO Code.

The ILO would reduce to a bare minimum the resources it devoted to examining the application of such Conventions within member countries. Instead, the ILO would place its emphasis on the modern Conventions. These would be used in conjunction with the ILO programs to which they correspond, as targets related to program objectives, and as yardsticks for assessing progress.

Reference was made earlier to the ILO Chart of Ratifications. It is suggested that in its present form the Chart, relating as it does to *all* Conventions, is essentially of historical rather than current interest, and has little relevance in assessing the extent to which countries conform to modern ILO policy. It would be preferable to develop a Chart that would include only the modern Conventions, classified by subject along the lines of those in the "short list" in Part II of the present study.

Out of Canada's 26 ratifications, 20 are of "modern" Conventions, and it is hoped that Canada will ratify a further group of such up-to-date Conventions in the near future. It is hard to envisage any practical purpose that would be served by Canada's seeking to ratify the out-of-date Conventions. It is the modern Conventions that should be considered, and these in fact are at present the object of study and federal-provincial consultation. It will be noted from Part IV that the obstacles to ratification appear to be relatively minor in some cases, although in others the difficulties are more considerable.

The Canada Department of Labour is in process of preparing a series of studies of the action required to bring legislation in each jurisdiction in Canada into conformity with ILO Conventions.

The object of these studies is, of course, to focus attention on the difficulties, whether great or small, and thus to prepare the basis for policy decisions as to whether the difficulties can or should be removed. The position in Canada with respect to various Conventions is reviewed annually by a federal-provincial conference of Deputy Ministers of Labour.

Active endeavours, through co-operation between federal and provincial Departments of Labour, to pave the way for the acceptance by Canada of international obligations defined in the Constitution of the ILO, may be regarded as a significant forward step in Canadian constitutional practice. The present study, and the series to which reference has been made, may hopefully play a role both in social policy and in the further strengthening of federal-provincial co-operation in pursuit of common objectives.

PART I

Brief survey of 138 ILO Conventions adopted between 1919 and 1973

In this survey, those Conventions which are thought to be worth consideration for possible inclusion in a modern International Labour Code are marked with an asterisk (*).

The remaining Conventions are those which have been revised or replaced by subsequent Conventions, those which have been unsuccessful (i.e., have received very few ratifications and have thus clearly failed to establish a valid international standard), and those which appear to be out of date and no longer applicable to present day conditions.

The survey shows the number of ratifications of each Convention as of June, 1973.

Convention No. 1 – Hours of Work, 1919

Provides for an 8-hour day and 48-hour week. Ratified by 35 countries.

This is the first of a series of efforts by the ILO to deal with the problem of hours of work. None of these Conventions has received many ratifications. For some countries the requirements of Convention 1 may be unduly restrictive as to the conditions under which overtime may be worked, and as to long hours in geographically remote areas. The requirement for an 8-hour day would prevent adoption of a 4-day 40-hour week.

It is suggested below, in Part III, that the ILO consider a review of its present standards on hours of work so as to achieve an up-to-date Convention.

Convention No. 2 – Unemployment, 1919

Though still in force, this Convention has to all intents and purposes been superseded by later Conventions on employment policy, unemployment benefits, employment service, and fee-charging employment agencies. Ratified by 47 countries.

Convention No. 3 – Maternity Protection, 1919

Revised by a subsequent Convention (No. 103). Ratified by 28 countries.

Convention No. 4 – Night Work (Women), 1919

Revised by two subsequent Conventions (No. 41 and No. 89). Ratified by 57 countries.

The concept of prohibiting night work for women is now rejected in many countries and some have in fact denounced the Conventions. The ILO has therefore undertaken a review of the working of the night work Conventions.

Convention No. 5 – Minimum Age for Employment (Industry), 1919

Sets minimum age of 14. This Convention has been revised by Convention No. 59, setting a minimum age of 15, and subsequently by Convention No. 138, adopted in 1973. Ratified by 60 countries.

Convention No. 6 – Night Work of Young Persons (Industry), 1919

Revised by a subsequent Convention (No. 90). Ratified by 52 countries.

Convention No. 7 – Minimum Age (Sea), 1920

Sets a minimum age of 14 years. Revised by a subsequent Convention (No. 58) which sets a minimum age of 15, and subsequently by Convention No. 138. Ratified by 43 countries including Canada.

**Convention No. 8 – Unemployment Indemnity (Shipwreck), 1920*

Ratified by 41 countries including Canada.

Convention No. 9 – Placing of Seamen, 1920

Ratified by 30 countries.

Convention No. 10 – Minimum Age (Agriculture), 1921

Ratified by 41 countries. Revised by Convention No. 138.

Convention No. 11 – Right of Association (Agriculture), 1921

Obliges members to give the same rights to agricultural workers as to industrial workers. Ratified by 89 countries.

The Convention is apparently superseded by Conventions 87 and 98.

Convention No. 12 – Workmen's Compensation (Agriculture), 1921

Requires members to extend to agricultural workers their workmen's compensation laws and regulations. Ratified by 53 countries. Revised by Convention 121.

Convention No. 13 – Use of White Lead in Painting, 1921

The hazard dealt with in this Convention is apparently no longer significant. Ratified by 49 countries.

**Convention No. 14 – Weekly Rest (Industry), 1921*

Provides for one day's rest in seven. Ratified by 80 countries including Canada.

Convention No. 15 – Minimum Age (Trimmers and Stokers), 1921

Ratified by 60 countries including Canada. Revised by Convention No. 138.

Convention No. 16 – Medical Examination of Young Persons (Sea), 1921

Ratified by 60 countries including Canada. Presumably superseded by Convention 73, applying to seafarers generally.

Convention No. 17 – Workmen's Compensation (Accidents), 1925

Outlines briefly the basic principles of workmen's compensation. Ratified by 52 countries. Revised by Convention 121.

Convention No. 18 – Workmen's Compensation (Occupational Diseases), 1925

Requires member countries to protect workers against certain specified industrial diseases. Ratified by 53 countries. Revised by Convention 121.

Convention No. 19 – Equality of Treatment (Accident Compensation), 1925

Requires equality of treatment for foreign workers and their dependants without any conditions as to residence. Ratified by 88 countries. Appears to have been superseded by Convention 118.

Convention No. 20 – Night Work (Bakeries), 1925

Prohibits the manufacture of bread at night. Ratified by 15 countries.

Convention No. 21 – Inspection of Emigrants on Board Ship, 1926

Ratified by 31 countries. Appears to be out-of-date, and largely superseded by the more comprehensive Convention 97.

**Convention No. 22 – Seamen's Articles of Agreement, 1926*

Ratified by 44 countries including Canada.

**Convention No. 23 – Repatriation of Seamen, 1926*

Ratified by 28 countries.

Convention No. 24 – Sickness Insurance (Industry), 1927

Ratified by 22 countries. Revised by Convention 130.

Convention No. 25 – Sickness Insurance (Agriculture), 1927

Ratified by 17 countries. Revised by Convention 130.

**Convention No. 26 – Minimum Wage-Fixing Machinery, 1928*

Ratified by 82 countries including Canada. Partly replaced by Convention No. 131 adopted in 1970.

**Convention No. 27 – Marking of Weight (Packages Transported by Vessels) 1929*

Ratified by 50 countries including Canada.

Convention No. 28 – Protection against Accidents (Dockers), 1929

Ratified by 4 countries. Revised by Convention No. 32; no longer open to ratification.

Convention No. 29 – Forced Labour, 1930

Outlaws the use of forced labour. Ratified by 106 countries.

Convention No. 30 – Hours of Work (Commerce and Offices), 1930

Ratified by 23 countries. (See comment under Convention 1).

Convention No. 31 – Hours of Work (Coal Mines), 1931

Ratified by 2 countries. Revised by Convention 46.

**Convention No. 32 – Protection Against Accidents (Dockers) (Revised), 1932*

Ratified by 37 countries including Canada. (This Convention is now regarded as in need of further revision).

Convention No. 33 – Minimum Age (Non-Industrial Employment), 1932

Ratified by 23 countries. Revised by Convention 60; no longer open to ratification.

Convention No. 34 – Fee-Charging Employment Agencies, 1933

Ratified by 10 countries. Revised by Convention 96; no longer open to ratification.

Convention No. 35 – Old-Age Insurance (Industry, etc.), 1933

Ratified by 11 countries. Revised by Convention 128.

Convention No. 36 – Old-Age Insurance (Agriculture), 1933

Ratified by 10 countries. Revised by Convention 128.

Convention No. 37 – Invalidity Insurance (Industry, etc.), 1933

Ratified by 9 countries. Revised by Convention 128.

Convention No. 38 – Invalidity Insurance (Agriculture), 1933

Ratified by 8 countries. Revised by Convention 128.

Convention No. 39 – Survivors' Insurance (Industry, etc.), 1933

Ratified by 7 countries. Revised by Convention 128.

Convention No. 40 – Survivors' Insurance (Agriculture), 1933

Ratified by 6 countries. Revised by Convention 128.

Convention No. 41 – Night Work (Women) (Revised), 1934

Ratified by 36 countries. Revised by Convention 89; no longer open to ratification.

Convention No. 42 – Workmen's Compensation (Occupational Diseases) (Revised), 1934

Ratified by 45 countries. Revised by Convention 121.

Convention No. 43 – Sheet-Glass Works, 1934

Ratified by 10 countries. Relates to hours of work. (See comment under Convention 1.)

Convention No. 44 – Unemployment Provision, 1934

Ratified by 14 countries. Apparently superseded by Convention No. 102. (The ILO has been planning a new Convention on unemployment benefit.)

**Convention No. 45 – Underground Work (Women), 1935*

Excludes females from underground work in mines. Ratified by 75 countries including Canada.

Convention No. 46 – Hours of Work (Coal Mines) (Revised), 1935

Ratified by 3 countries. Not in force.

**Convention No. 47 – Forty-hour Week, 1935*

Asserts the “principle” of the 40-hour week. Ratified by only 5 countries, but is probably the most useful of the Conventions on hours of work. (See comment under Convention 1.)

Convention No. 48 – Maintenance of Migrants’ Pension Rights, 1935

Proposes an “international scheme” for the maintenance of migrants’ rights. Ratified by 8 countries. Superseded by Convention 118.

Convention No. 49 – Reduction of Hours of Work (Glass-Bottle Works), 1935

Ratified by 7 countries. (See comment under Convention 1.)

Convention No. 50 – Recruiting of Indigenous Workers, 1936

Ratified by 26 countries. Apparently intended to deal with problems of colonial territories. Some of the Conventions on Indigenous Workers have become largely obsolete as a result of the achievement of independence by most former colonial territories.

Convention No. 51 – Reduction of Hours of Work on Public Works, 1936

Confirms the principle laid down in the 40-hour week Convention, and seeks to apply it to public works. No ratifications.

Convention No. 52 – Annual Holidays with Pay, 1936

Provides for an annual holiday of at least six working days after one year of service, the duration to increase with length of service (unspecified). Ratified by 48 countries; revised in 1970 by Convention 132 providing for a three-week vacation.

**Convention No. 53 – Minimum Requirement of Competency for Officers on Board Ships, 1936*

Ratified by 24 countries.

Convention No. 54 – Holidays with Pay (Sea), 1936

Ratified by 6 countries. Revised and no longer open to ratification.

**Convention No. 55 – Shipowners Liability (Sick and Injured Seamen), 1936*

Ratified by 13 countries.

Convention No. 56 – Sickness Insurance (Sea), 1936

Ratified by 11 countries. Relatively unsuccessful, and presumably superseded by Convention 130 providing for medical care and sickness benefits in industry generally.

Convention No. 57 – Hours of Work and Manning (Sea), 1936

Ratified by 4 countries and not in force. Three revisions have been made of this Convention, none of them successful.

Convention No. 58 – Minimum Age (Sea), 1936

Provides a minimum age of 15 for employment at sea. Ratified by 45 countries including Canada. Revised by Convention No. 138.

Convention No. 59 – Minimum Age (Industry), 1937

Provides a minimum age of 15 for employment in “industry” as defined. Ratified by 30 countries. Revised by Convention No. 138.

Convention No. 60 – Minimum Age (Non-Industrial Employment), 1937

Provides a minimum age of 15. Ratified by 11 countries. Revised by Convention No. 138.

Convention No. 61 – Reduction of Hours of Work (Textiles), 1937

No ratifications.

Convention No. 62 – Safety Provisions (Building), 1937

Ratified by 26 countries. Out of date; may be largely superseded by the adoption by the ILO of a model code for safety in building.

**Convention No. 63 – Statistics of Wages and Hours of Work, 1938*

Ratified by 32 countries including Canada.

Convention No. 64 – Contracts of Employment (Indigenous Workers), 1939

Ratified by 24 countries. Designed to protect indigenous workers from exploitation by providing for government regulation of their contracts of employment. Possibly to some extent superseded by Convention 111 on discrimination. (See comment under Convention 50.)

Convention No. 65 – Penal Sanctions (Indigenous Workers), 1939

Ratified by 27 countries. (See comment on Convention 50.)

Convention No. 66 – Migration for Employment, 1939

No ratifications; revised by Convention 97.

Convention No. 67 – Hours of Work and Rest Periods (Road Transport), 1939

Provides for a basic 48-hour week. Ratified by 4 countries. (See comment on Convention 1.)

**Convention No. 68 – Food and Catering (Ships Crews), 1946*

Ratified by 16 countries including Canada.

**Convention No. 69 – Certification of Ships' Cooks, 1946*

Ratified by 20 countries including Canada.

Convention No. 70 – Social Security (Seafarers), 1946

Ratified by 7 countries.

Convention No. 71 – Seafarers Pensions, 1946

Ratified by 9 countries.

Convention No. 72 – Paid Vacations (Seafarers), 1946

Ratified by 5 countries. Not in force; not open to ratification. Revised by Convention 91.

**Convention No. 73 – Medical Examination (Seafarers), 1946*

Ratified by 23 countries including Canada.

**Convention No. 74 – Certification of Able Seamen, 1946*

Ratified by 18 countries including Canada.

Convention No. 75 – Accommodation of Crews, 1946

Ratified by 5 countries. Not in force, revised by Convention 92.

Convention No. 76 – Wages, Hours of Work and Manning (Sea), 1946

Ratified by 1 country; revised by Convention 93 and 109, (See comment on Convention 57.)

**Convention No. 77 – Medical Examination of Young Persons (Industry), 1946*

Ratified by 25 countries. This Convention, and Convention 78 on the same subject, have both been tentatively included in the "short list"

since the principle of medical examination is valid, particularly for occupations that may present a health risk. However, the Conventions would probably be more useful if revised.

**Convention No. 78 – Medical Examination of Young Persons (Non-Industrial Occupations), 1946*

Ratified by 24 countries.

**Convention No. 79 – Night Work of Young Persons (Non-Industrial Occupations), 1946*

Ratified by 16 countries. This Convention and Convention 90 have been included in the “short list” but their provisions may need re-examination.

Convention No. 80 – Final Articles Revision, 1946

A procedural Convention, resulting from the dissolution of the League of Nations. Ratified by 51 countries including Canada.

**Convention No. 81 – Labour Inspection, 1947*

Ratified by 78 countries.

Convention No. 82 – Social Policy (Non-metropolitan Territories), 1947

Ratified by 4 countries.

Convention No. 83 – Labour Standards (Non-metropolitan Territories), 1947

Ratified by 1 country.

Convention No. 84 – Right of Association (Non-metropolitan Territories), 1947

Ratified by 4 countries.

Convention No. 85 – Labour Inspectorates (Non-metropolitan Territories), 1947

Ratified by 4 countries.

Convention No. 86 – Contracts of Employment (Indigenous Workers), 1947

Concerns the maximum length of contracts of employment of indigenous workers. Ratified by 17 countries. (See comment on Convention 50.)

**Convention No. 87 – Freedom of Association and Protection of the Right to Organize, 1948*

One of the basic human rights Conventions. Ratified by 80 countries including Canada.

**Convention No. 88 – Employment Service, 1948*

Ratified by 54 countries including Canada.

Convention No. 89 – Night Work (Women) (Revised), 1948

Ratified by 52 countries. (See comment on Convention 4.)

**Convention No. 90 – Night Work of Young Persons (Industry) (Revised), 1948*

Ratified by 36 countries.

**Convention No. 91 – Paid Vacations (Seafarers) (Revised), 1949*

Ratified by 18 countries.

**Convention No. 92 – Accommodation of Crews (Revised), 1949*

Ratified by 22 countries.

Convention No. 93 – Wages, Hours of Work and Manning (Sea) (Revised), 1949

Ratified by 5 countries. (See comment on Convention 57.)

**Convention No. 94 – Labour Clauses (Public Contracts), 1949*

Ratified by 44 countries.

**Convention No. 95 – Protection of Wages, 1949*

Ratified by 68 countries.

**Convention No. 96 – Fee-Charging Employment Agencies (Revised), 1949*

Ratified by 32 countries.

**Convention No. 97 – Migration for Employment (Revised), 1949*

Ratified by 30 countries.

**Convention No. 98 – Right to Organize and Collective Bargaining, 1949*

One of the basic human rights Conventions. Ratified by 93 countries.

**Convention No. 99 – Minimum Wage Fixing Machinery (Agriculture), 1951*

Ratified by 40 countries.

**Convention No. 100 – Equal Remuneration, 1951*

Ratified by 78 countries including Canada.

Convention No. 101 – Holidays with Pay (Agriculture), 1952

Ratified by 38 countries. Revised by Convention 132.

**Convention No. 102 – Social Security (Minimum Standards), 1952*

This is the basic social security Convention. It covers nine branches of social security and a country can ratify on the basis of conformity with three. Ratified by 22 countries.

**Convention No. 103 – Maternity Protection (Revised)*

The Convention provides both for maternity leave and for cash and medical benefits. Some of the requirements of the Convention are thought to be inappropriate in the light of modern working conditions and the development of medical knowledge since the Convention was adopted. Ratified by 14 countries.

Convention No. 104 – Abolition of Penal Sanctions (Indigenous Workers), 1955

Ratified by 23 countries. (See comment on Convention 50.)

**Convention No. 105 – Abolition of Forced Labour, 1957*

One of the basic human rights Conventions. Ratified by 90 countries including Canada.

**Convention No. 106 – Weekly Rest (Commerce and Offices), 1957*

Ratified by 36 countries.

**Convention No. 107 – Indigenous and Tribal Populations, 1957*

Ratified by 25 countries.

**Convention No. 108 – Seafarers' Identity Documents, 1958*

Ratified by 28 countries including Canada.

**Convention No. 109 – Wages, Hours of Work and Manning (Sea) (Revised), 1958*

Ratified by 8 countries; not in force. (See comment on Convention 57.)

**Convention No. 110 – Plantations, 1958*

This omnibus Convention, containing 99 articles, has been ratified by only 9 countries. It applies to agricultural undertakings in tropical or sub-tropical regions.

**Convention No. 111 – Discrimination (Employment and Occupations), 1958*

One of the basic human rights Conventions. Ratified by 80 countries including Canada.

Convention No. 112 – Minimum Age (Fisherman), 1959

Sets an age of 15 for employment on fishing vessels. Ratified by 29 countries. Revised by Convention No. 138.

**Convention No. 113 – Medical Examination (Fishermen), 1959*

Ratified by 18 countries.

**Convention No. 114 – Fishermen's Articles of Agreement, 1959*

Ratified by 16 countries.

**Convention No. 115 – Radiation Protection, 1960*

An important Convention ratified by 26 countries.

Convention No. 116 – Final Articles Revision, 1961

Procedural; concerns the standardizing of provisions regarding the preparation of reports by the ILO on the working of Conventions. Ratified by 66 countries including Canada.

**Convention No. 117 – Social Policy (Basic Aims and Standards), 1962*

Intended as a guide to social policy in newly independent states, formerly covered by Conventions applicable to non-metropolitan territories. Ratified by 24 countries.

**Convention No. 118 – Equality of Treatment (Social Security), 1962*

Requires a member country that ratifies to grant equal treatment within its territory to the nationals of any other members that have ratified with respect to social security. Applies to nine branches of social

security but can be ratified on the basis of one or more. Has been ratified by 26 countries.

**Convention No. 119 – Guarding of Machinery, 1963*

Ratified by 30 countries.

**Convention No. 120 – Hygiene (Commerce and Offices), 1964*

Consists of a set of general principles; proposed methods of implementation are set forth in a supplementary Recommendation (No. 120). Ratified by 33 countries.

**Convention No. 121 – Employment Injury Benefits, 1964*

This is the first in a series of efforts by the ILO to enact comprehensive Conventions on the various branches of social security. Has been ratified by 12 countries.

**Convention No. 122 – Employment Policy, 1964*

A basic Convention. Ratified by 48 countries including Canada.

Convention No. 123 – Minimum Age (Underground Work), 1965

Ratified by 32 countries. Revised by Convention No. 138.

**Convention No. 124 – Medical Examination of Young Persons (Underground Work), 1965*

Ratified by 28 countries.

**Convention No. 125 – Fishermen's Competency Certificates, 1966*

Ratified by 8 countries.

**Convention No. 126 – Accommodation of Crews (Fishermen), 1966*

Ratified by 8 countries.

**Convention No. 127 – Maximum Weight, 1967*

Ratified by 14 countries.

**Convention No. 128 – Invalidity, Old-Age and Survivors' Benefits, 1967*

Ratified by 7 countries. (See comment on Convention No. 121.)

**Convention No. 129 – Labour Inspection (Agriculture), 1969*

Ratified by 10 countries.

**Convention No. 130 – Medical Care and Sickness Benefits, 1969*

Ratified by 4 countries. (See comment on Convention 121.)

**Convention No. 131 – Minimum Wage Fixing, 1970*

Ratified by 9 countries.

**Convention No. 132 – Holidays with Pay (Revised), 1970*

Provides a standard three-week vacation after one year of service.
Ratified by 2 countries.

**Convention No. 133 – Accommodation of crews (Supplementary Provisions), 1970*

Ratified by 3 countries.

**Convention No. 134 – Prevention of Accidents (Seafarers), 1970*

Ratified by 2 countries.

**Convention No. 135 – Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking, 1971*

Ratified by 10 countries.

**Convention No. 136 – Protection Against Hazards of Poisoning Arising from Benzene, 1971*

Ratified by 7 countries.

**Convention No. 137 – Social Repercussions of New Methods of Cargo Handling in Docks, 1973*

No ratifications.

**Convention No. 138 – Minimum Age for Employment, 1973*

This Convention revised all the earlier minimum age Conventions. It sets out a minimum age of 15, and of 18 in hazardous employment, but permits developing countries to initially specify lower ages (14 and 16).
No ratifications.

PART II

“Short List” of Conventions to be considered for inclusion in List of Basic ILO Conventions

Following is a list of those Conventions that in Part I were marked with an asterisk as being worth consideration for possible inclusion in a modern International Labour Code. Their order has been rearranged.

First come the Conventions of general application, numbering 38. These have been grouped by subject matter: basic human rights; industrial relations; labour administration; employment policy and services; labour standards; social security; safety and health; and social policy.

Next comes a list of 28 Conventions applying to special categories of workers. These are divided according to whether they apply to: maritime workers; dockers; agricultural workers; indigenous workers; fishermen; and miners.

A. Conventions of General Application

Basic Human Rights

No. 29 – Forced Labour

No. 87 – Freedom of Association and Protection of the Right to Organize

No. 98 – Right to Organize and Collective Bargaining

No. 100 – Equal Remuneration

No. 105 – Abolition of Forced Labour

No. 111 – Discrimination (Employment and Occupation)

Industrial Relations

No. 135 – Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking

Labour Administration

No. 63 – Statistics of Wages and Hours of Work

No. 81 – Labour Inspection

Employment Policy and Services

No. 88 – Employment Service

No. 96 – Fee-Charging Employment Agencies

No. 97 – Migration for Employment

No. 122 – Employment Policy

Labour Standards

No. 14 – Weekly Rest (Industry)

No. 26 – Minimum Wage-Fixing Machinery

No. 47 – Forty-Hour Week

No. 77 – Medical Examination of Young Persons (Industry)

No. 78 – Medical Examination of Young Persons (Non-Industrial Occupations)

No. 79 – Night Work of Young Persons (Non-Industrial Occupations)

No. 90 – Night Work of Young Persons (Industry)

No. 94 – Labour Clauses (Public Contracts)

No. 95 – Protection of Wages

No. 103 – Maternity Protection

No. 106 – Weekly Rest (Commerce and Offices)

No. 131 – Minimum Wage Fixing

No. 132 – Holidays with Pay

No. 138 – Minimum Age for Employment

Social Security

No. 102 – Social Security (Minimum Standards)

No. 118 – Equality of Treatment (Social Security)

No. 121 – Employment Injury Benefits

No. 128 – Invalidity, Old-Age and Survivors' Benefits

No. 130 – Medical Care and Sickness Benefits

Safety and Health

No. 115 – Radiation Protection

No. 119 – Guarding of Machinery

No. 120 – Hygiene (Commerce and Offices)

No. 127 – Maximum Weight

No. 136 – Protection Against Hazards of Poisoning Arising from Benzene

Social Policy

No. 117 – Social Policy (Basic Aims and Standards)

B. Conventions Applying to Special Categories of Workers

Maritime Workers

- No. 8 – Unemployment Indemnity (Shipwreck)
- No. 22 – Seamen's Articles of Agreement
- No. 23 – Repatriation of Seamen
- No. 27 – Marking of Weight (Packages Transported by Vessels)
- No. 53 – Officers' Competency Certificates
- No. 55 – Shipowners' Liability (Sick and Injured Seamen)
- No. 68 – Food and Catering (Ships' Crews)
- No. 69 – Certification of Ships' Cooks
- No. 73 – Medical Examination (Seafarers)
- No. 74 – Certification of Able Seamen
- No. 91 – Paid Vacations (Seafarers)
- No. 92 – Accommodation of Crews
- No. 108 – Seafarers' Identity Documents
- No. 109 – Wages, Hours of Work and Manning (Sea)
- No. 133 – Accommodation of Crews (Supplementary Provisions)
- No. 134 – Prevention of Accidents (Seafarers)

Dockers

- No. 32 – Protection against accidents (Dockers)
- No. 137 – Social Repercussions of New Methods of Cargo Handling in Docks

Agricultural Workers

- No. 99 – Minimum Wage Fixing Machinery (Agriculture)
- No. 110 – Plantations
- No. 129 – Labour Inspection (Agriculture)

Indigenous Workers

- No. 107 – Indigenous and Tribal Populations

Fishermen

- No. 113 – Medical Examination (Fishermen)
- No. 114 – Fishermen’s Articles of Agreement
- No. 125 – Fishermen’s Competency Certificates
- No. 126 – Accommodation of Crews (Fishermen)

Miners

- No. 45 – Underground Work (Women)
- No. 124 – Medical Examination of Young Persons (Underground Work)

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The following list shows the number of Conventions in each category.

The total includes 38 Conventions of general application and 28 applying to particular categories of workers.

A. Conventions of General Application

Basic Human Rights	6
Industrial Relations	1
Labour Administration	2
Employment Policy and Services	4
Labour Standards	14
Social Security	5
Safety and Health	5
Social Policy	1
Total A	<u>38</u>

B. *Conventions Applying to Particular Categories*

Maritime Workers	16
Dockers	2
Agricultural Workers	3
Indigenous Workers	1
Fishermen	4
Miners	2
	<hr/>
Total B	28
	<hr/>
Total A	38
	<hr/>
Grand Total	66

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PART III

The basis for a modern International Labour Code

Within recent years there has been an increasing commitment by the International Labour Organization to the programming concept. This concept involves looking at the ILO, not as an organization that conducts meetings or adopts Conventions or offers technical co-operation or issues publications, but as an organization having programs of action designed to deal with particular subject areas falling within the ILO's constitutional mandate.

It is within this framework of an International Labour Organization dedicated to achieving agreed program objectives that the ILO's standard-setting activity ought mainly to be seen. International standard-setting is one of the "means of action" at the disposal of the ILO for achieving the objectives of programs in various subject areas. Each ILO subject program includes one or more ILO Conventions and Recommendations. A convention may often be seen as embodying the objective of an ILO program or of part of an ILO program. The record of ratifications of the Convention may constitute a yardstick for assessing the extent to which the objective has been achieved within the various member countries of the ILO.

To perform this function, it is necessary that ILO Conventions be up-to-date, reflecting the best of modern thinking concerning the subject matter they cover. It follows that obsolete instruments which no longer serve a useful purpose should be set aside.

It is also important that there not be a superfluity of ILO instruments dealing with the same or similar subject areas. The "short list" still includes some duplications, which might be dealt with over time.

Finally it becomes necessary to identify the gaps in the International Labour Code, and develop suggestions to the Conference for a program for filling the gaps. It must of course be recognized that if the Code is to be a positive force for social progress, it must meet the changing requirements of developing social policy as they arise. New gaps will become apparent from time to time in the future, calling for the enactment of new ILO standards, as well as new needs for the revision of existing standards.

In the table that follows, the Conventions contained in the "short list" of Part II are again listed, this time with comments. The comments relate to the adequacy of the various segments of the Code. There are also a number of suggestions for additions.

Some Comments and Suggestions Concerning the Components of a Modern International Labour Code

Basic Human Rights

Forced Labour	Nos. 29, 105
Freedom of Association and Collective Bargaining	Nos. 87, 98
Equal Remuneration	No. 100
Discrimination in Employment	No. 111

The foregoing Conventions have all received a substantial number of ratifications and rank among the most successful and valuable ILO instruments.

As for the possibility of additional Conventions dealing with Human Rights, it should be noted that at the 54th Session of the Conference, in June 1970, there was a general discussion of Trade Union Rights and their Relation to Civil Liberties, and that the Conference proposed that consideration be given in future to the development of one or more new instruments in this area.

Industrial Relations

Protection and Facilities to be Afforded to Workers' Representatives In the Undertaking	No. 135
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Apart from Conventions 87 and 98, which have been listed above under the heading "Basic Human Rights," Convention 135 is the only modern Convention in the field of industrial relations. There are, however, several Recommendations dealing with various aspects of industrial relations including Nos. 91, Collective Agreements; 92, Voluntary Conciliation and Arbitration; 94, Co-operation at the Level of the Undertaking; 113, Consultation; 129, Communications between Management and Workers within the Undertaking. Some of these need revising. They could also be reviewed to see if there are any elements in them that might form the basis of Conventions.

Labour Administration

Labour Inspection	No. 81
Labour Statistics	No. 63

It is contemplated that the International Labour Conference will review the present standards on labour administration fairly soon. The best labour legislation in the world becomes worthless

if it is not effectively administered and enforced. Many of the existing Conventions do indeed contain provisions relating to administration and enforcement. The review may suggest whether one or more additional instruments on techniques of administration and enforcement would be valuable. Such instruments might provide a useful basis for ILO technical co-operation and field services.

Employment Policy and Services

Employment Policy	No. 122
Employment Services	
Employment Service	No. 88
Fee-Charging Employment Agencies	No. 96
Migration for Employment	No. 97

The revision of this Convention, and the addition of new instruments, are under consideration by the Conference. Recommendation 87, Vocational Guidance, and 117, Vocational Training, are also relevant to this subject area.

Labour Standards

Hours of Work	No. 47
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The ILO has over the years made many attempts to adopt Conventions on Hours of Work. None has been particularly successful. Convention 47 deals with the 40-hour week as a principle and has perhaps a certain value for industrialized countries. However, even in industrialized countries, there are a number of industries in which the 40-hour week is not regarded as practicable, and appropriate standards for such industries may need to be developed. The Convention does not deal with the problem of enforcement, whether by imposing an absolute ceiling on the total of weekly and/or daily hours or by requiring that premium rates shall be paid over and above a certain overtime number of hours worked.

The closest thing to a modern ILO standard on hours of work is Recommendation 116, adopted in 1962. The lack of an adequate Convention or Conventions on the subject is one of the weakest elements in the International Labour Code, given that unduly long hours continue to be worked by many workers, even in highly industrialized countries.

Weekly Rest	Nos. 14, 106
Holidays with Pay	No. 132

Wages

Minimum Wage-Fixing Machinery	Nos. 26, 131
Protection of Wages	No. 95

Protection of Young Persons

Night Work	Nos. 79, 90
Medical Examination	Nos. 77, 78

(These four Conventions appear to need re-examination.)

Minimum Age for Employment	No. 138
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Protection of Women

Maternity Protection	No. 103
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At its very first Conference in 1919, the ILO adopted Convention No. 4 on Night Work for Women. This Convention was relatively successful in its day, having been ratified by 56 countries. However, times have changed, and in the light of modern ideas concerning the status of women, it is argued that legislation on this subject is no longer desirable. The subject has therefore been tentatively excluded from the "short list." Similar reasoning may perhaps apply to the Convention on Underground Work in Mines.

The Convention on Maternity Protection needs revision in some respects in the light of present medical knowledge.

It should be noted that perhaps the two most important ILO Conventions concerning women are listed under the heading "Basic Human Rights;" these are the Conventions on Equal Remuneration and Discrimination in Employment.

Note should also be taken of the Recommendation adopted in 1965 on the Employment of Women with Family Responsibilities.

Labour Clauses in Public Contracts	No. 94
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In addition to the Labour Standards Conventions listed above, it should be mentioned that an instrument is contemplated on the subject of Paid Educational Leave. This subject has been placed on the agenda of the Conference for 1973 and 1974. The Conference has not yet adopted a standard on the important issue of adjustment to technological change, although this matter was given general discussion at the 1972 Session. There is, however, a Recommendation, No. 119, concerning Termination of Employment.

Social Security

Minimum Standards (the basic Convention)	No. 102
Equality of Treatment, Nationals and Non-Nationals	No. 118
Specific Social Security Risks (advanced standards)	
Employment Injury Benefits	No. 121
Invalidity, Old-Age and Survivors' Benefits	No. 128
Medical Care and Sickness Benefits	No. 130

The ILO apparently contemplates developing additional Conventions on family benefits and on unemployment protection. It may, however, be questioned whether Conventions 121, 128 and 130, listed above, contain too much detail to be widely useful. It might have been preferable to have adopted shorter Conventions, incorporating the details in Recommendations.

Safety and Health

There appears to be need for a general review of ILO standards on occupational safety and health. At present there are a few Conventions dealing with specific hazards. There are also a number of general Recommendations (No. 31, Prevention of Industrial Accidents; No. 97, Protection of Health of Workers; No. 112, Occupational Health Services; and No. 102, Welfare Facilities.)

There would seem to be room for a basic Convention establishing the responsibility of the state in the provision of safety and health services, supplemented by a Recommendation dealing with the responsibility of employers and unions.

There may also be need for a policy framework for standard setting on specific hazards, as an improvement on the present rather arbitrary approach to the selection of subjects for Conventions.

Radiation	No. 115
Guarding of Machinery	No. 119
Maximum Weight	No. 127
Benzene	No. 136
Hygiene (Commerce and Offices)	No. 120

It might be added that there exists a Recommendation, No. 99, on Vocational Rehabilitation.

Social Policy

Social Policy

No. 117

This is a kind of omnibus Convention aimed essentially at providing newly independent countries with general guidelines as to labour and social policy.

Mention might be made under the heading "Social Policy" of Recommendation No. 115 on Workers' Housing.

Future ILO action in such areas as multi-national corporations, guaranteed minimum income, continuous training, and humanization of work, might fit under the broad heading of "Social Policy."

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No analysis is here included of the adequacy of the Conventions dealing with specific categories of workers.

PART IV

Position of Canada with Respect to Conventions Suggested for Inclusion in a Modern International Labour Code

In considering the degree of Canadian compliance with ILO standards, account must be taken of Canada's federal constitution. Where the subject matter of a Convention is of divided jurisdiction, it is necessary to consider the position in each of the ten provinces, as well as in the federal jurisdiction, and sometimes in the territories as well.

Considerable progress has been made in Canada in recent years in coping with the constitutional obstacles to the ratification of such Conventions. However, there are other obstacles as well. For example, study of a Convention's requirements may reveal points of difference with Canadian practice that are technical in nature and not particularly significant. Such problems arise in unitary states also and may delay or prevent ratification; but the problem is obviously seriously magnified in a federal state like Canada, where the elimination of such differences in all jurisdictions may require action by ten or more legislative bodies. Where social progress would clearly result, the effort to obtain compliance is clearly worthwhile. But this is not always the case, and Canada will be content to report that it complies with the instrument's major requirements but that ratification is not contemplated.

In the present chapter the Canadian position with respect to each of the "modern" Conventions is described, first for the Conventions of general application and second for the Conventions applying the special categories of workers.

Finally, there is a brief analysis of how Canada stands with respect to the modern Code.

A. Conventions of General Application

Basic Human Rights

No. 29 — Forced Labour

Canada complies with this Convention but has not ratified it.

No. 87 — Freedom of Association and Protection of the Right to Organize

Ratified by Canada.

No. 98 — Right to Organize and Bargain Collectively

Canada complies with most of the requirements of this

Convention, but ratification is prevented by gaps in coverage of Canadian industrial relations legislation, which excludes agricultural workers and professional workers in some jurisdictions.

No. 100 – Equal Remuneration

Ratified by Canada.

No. 105 – Abolition of Forced Labour

Ratified by Canada.

No. 111 – Discrimination (Employment and Occupation)

Ratified by Canada.

Industrial Relations

No. 135 – Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking

Review of the contents of this Convention indicates that the requirements for “protection” of workers’ representatives are met in Canadian legislation. However, “facilities” are generally provided by collective agreement or by practice, and there is little likelihood of legislation being adopted in this field. Thus, there is not sufficient basis for Canada to assume an international obligation in respect of the requirements of the Convention.

Labour Administration

No. 63 – Statistics of Wages and Hours of Work

Ratified by Canada.

No. 81 – Labour Inspection

Canada’s standards of labour inspection appear to match the requirements substantially in all jurisdictions. However, there are almost 150 statutory provisions in Canada related to the subject matter of the Convention and not all of these comply with all the Convention’s requirements. Even though the divergencies are relatively minor it would not appear appropriate for Canada to ratify the Convention.

Employment Policy and Services

No. 88 – Employment Service

Ratified by Canada.

No. 96 – Fee-Charging Employment Agencies

The charging of fees to employees is either banned or regulated throughout most of Canada. However, the Convention also seeks to regulate the charging of fees to employers, and since this requirement is neither met nor regarded as a policy objective in Canada, ratification is not contemplated.

No. 97 – Migration for Employment

Substantial compliance in Canada. The subject of migrant workers is under consideration by the Conference in 1974 and 1975. The question of ratification of Convention 97 will be reviewed when Conference action is completed.

No. 122 – Employment Policy

Ratified by Canada.

Labour Standards

No. 14 – Weekly Rest (Industry)

Ratified by Canada.

No. 26 – Minimum Wage-Fixing Machinery

Ratified by Canada.

No. 47 – Forty-Hour Week

This Convention seeks to establish the principle of the 40-hour week and does not require its full implementation. Since the 40-hour week is widely prevalent in Canada and is given a statutory base in the Canada Labour Standards Code, it would probably be possible for Canada to ratify this Convention. However, it is not clear that ratification would serve a useful purpose. Moreover, it seems incongruous for Canada to ratify a Convention on the 40-hour week when it does not fully comply with the Convention on the 48-hour week.

No. 77 – Medical Examination of Young Persons (Industry)

No. 78 – Medical Examination of Young Persons
(Non-Industrial Occupations)

The practice of pre-employment medical examination and periodic re-examination is often followed in Canada as part of medical services provided by the employer, particularly in large undertakings and where the nature of the work warrants. There are, however, few legislative provisions regarding medical examination, except in mining and shipping, and it does not appear that there would be much support in Canada for ratifying either of these Conventions.

No. 79 – Night Work of Young Persons (Non-Industrial Occupations)

No. 90 – Night Work of Young Persons (Industry)

Legislation exists in most Canadian jurisdictions limiting night work for young persons, but it does not correspond with all the requirements of the two Conventions. Since the minimum age for employment in Canada is 15 or higher, the problem of night work for those below this age does not arise; and it is not clear that there is wide support in Canada for all the Conventions' requirements respecting youths above this age.

No. 94 – Labour Clauses (Public Contracts)

The requirements of the Convention are largely met in the federal jurisdiction, but there are gaps in coverage.

No. 95 – Protection of Wages

Though there is compliance with the basic requirements of this Convention there are certain divergencies from some of the required standards that may make it inexpedient to ratify for the time being.

No. 103 – Maternity Protection

The basic requirements concerning maternity leave are met in some jurisdictions, while the requirements for income maintenance are broadly met by the Unemployment Insurance Act. Also medical benefits are provided. However, some of the requirements of the Convention are thought to be inappropriate in the light of modern working conditions and the development of medical knowledge since the Convention was adopted, and it is not intended to seek to ratify.

No. 106 – Weekly Rest (Commerce and Offices)

Most jurisdictions appear to comply with the main requirements of the Convention, but there are some divergencies.

No. 131 – Minimum Wage Fixing

Consideration will be given to ratifying this Convention following consultation with the Provinces.

No. 152 – Holidays with Pay

Canada is not in compliance with the standard of the three-week vacation after one year of service.

Social Security

No. 102 – Social Security (Minimum Standards)

This Convention covers nine branches of social security and a country can ratify on the basis of conformity with three. Ratification by Canada was contemplated several years ago with respect to certain of the sections but the requirements of the Convention will need to be reviewed in the light of new concepts of social security.

No. 118 – Equality of Treatment (Social Security)

The principle of this Convention is accepted in Canada.

No. 121 – Employment Injury Benefits.

A study of the situation in Canada has been published. There is substantial Canadian compliance with the main requirements of the Convention, but there are some divergencies.

No. 128 – Invalidity, Old-Age and Survivors' Benefits

Canada appears to be in substantial compliance with provisions of this Convention dealing with old age benefits. The provisions dealing with invalidity benefits and survivors' benefits have not yet been studied.

No. 130 – Medical Care and Sickness Benefits

The requirements concerning medical care are substantially met in Canada with the exception of publicly administered dental care programs and programs providing pharmaceutical supplies. The requirements concerning cash sickness benefits are substantially met by recent amendments to the Unemployment Insurance Act except for the duration of benefits.

Safety and Health

No. 115 – Radiation Protection

The requirements are largely met in Canada but there are some divergencies.

No. 119 – Guarding of Machinery

The requirements for guarding of machinery are largely met, but the requirements concerning sale and hire of machinery are not.

No. 120 – Hygiene (Commerce and Offices)

Considerable compliance, but some divergencies.

No. 127 – Maximum Weight

Considerable improvement in Canadian legislation would be required to meet the Convention's requirements.

No. 136 – Protection Against Hazards of Poisoning Arising from Benzene

Considerable compliance, but some divergencies.

Social Policy

No. 117 – Social Policy (Basic Aims and Standards)

Intended as a guide to social policy in newly independent states, and not appropriate for consideration by Canada.

**B. Conventions Applying to Special
Categories of Workers**

Maritime Workers

No. 8 – Unemployment Indemnity (Ship)

Ratified by Canada.

No. 22 – Seamen's Articles of Agreement

Ratified by Canada.

No. 23 – Repatriation of Seamen

To be given further consideration.

No. 27 – Marking of Weight (Packages Transported by Vessels)

Ratified by Canada.

No. 53 – Officers' Competency Certificates

Ratification by Canada contemplated if appropriate legislative changes are enacted.

No. 55 – Shipowners Liability (Sick and Injured Seamen)

At present there are obstacles to ratification.

No. 68 – Food and Catering (Ships' Crews)

Ratified by Canada.

No. 69 – Certification of Ships' Cooks

Ratified by Canada.

No. 73 – Medical Examination (Seafarers)

Ratified by Canada.

No. 74 – Certification of Able Seamen

Ratified by Canada.

No. 91 – Paid Vacations (Seafarers)

Canada is not in full compliance.

No. 92 – Accommodation of Crews (Revised)

A set of crew accommodation recommendations, which comply with the Convention, has been published but not yet enacted as regulations.

No. 108 – Seafarers Identity Documents

Ratified by Canada.

No. 109 – Wages, Hours of Work and Manning (Sea)

Under study.

No. 133 – Accommodation of Crews (Supplementary Provisions)

Same position as with No. 92.

No. 134 – Prevention of Accidents (Seafarers)

Under study.

Dockers

No. 32 – Protection Against Accidents (Dockers)

Ratified by Canada.

No. 137 – Social Repercussions of New Methods of Cargo Handling in Docks

New Convention; to be studied with a view to possible ratification.

Agricultural Workers

No. 99 – Minimum Wage-Fixing Machinery (Agriculture)

Agricultural workers are excluded from minimum wage legislation in most jurisdictions, and Canada therefore does not comply with the requirements of the Convention.

No. 110 – Plantations

This Convention applies only to agricultural undertakings in tropical or sub-tropical regions and is therefore not relevant of Canada.

No. 129 – Labour Inspection (Agriculture)

Provision of labour inspectorates in the various Canadian jurisdictions would be meaningless unless more legislation covering agricultural workers were to be adopted.

Indigenous Workers

No. 107 – Indigenous and Tribal Populations

Canada is in substantial but not complete compliance.

Fishermen

No. 113 – Medical Examination (Fishermen)

Under study.

No. 114 – Fishermen's Articles of Agreement

Under study.

No. 125 – Fishermen's Competency Certificates

Canada is not in full compliance.

No. 126 – Accommodation of Crews (Fishermen)

Same position as with No. 92.

Miners

No. 45 – Underground Work (Women)

Ratified by Canada.

No. 124 – Medical Examination of Young Persons
(Underground Work)

Substantial compliance in Canada, but some minor divergencies.

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SUMMARY OF CANADIAN POSITION

The Conventions on *basic human rights* are essentially Conventions of principle. In all Canadian jurisdictions recognition has been given to the principles. This does not mean that they are adhered to at all times and in all places — “the price of freedom is eternal vigilance.” Ratification of the Conventions aligns Canada with those countries which have recognized the maintenance of the rights concerned as an international obligation.

Canada has ratified four of the six human rights Conventions and is in compliance with a fifth. The sixth is Convention No. 98, Right to Organize and Bargain Collectively; Canada is basically in compliance except for the exclusion in some jurisdictions of agricultural workers and professional workers from industrial relations legislation.

There is substantial compliance in Canada with the *industrial relations* Convention, although ratification does not appear feasible. Of the two *labour administration* Conventions, Canada has ratified one and is in general compliance with the other, though ratification may not be possible.

In the field of *employment policy and services* Canada has ratified two of the four Conventions and is in compliance with a third. The fourth, dealing with fee-charging employment agencies, contains provisions which make it unacceptable as a target for ratification by Canada.

In the *labour standards* field Canada has ratified only two of the 14 Conventions listed. Ratification of two others is under consideration. There is substantial compliance with four others. Canadian legislation does not match the requirements of the two Conventions on medical examination of young persons, of the two Conventions on night work of young persons, or the Convention on maternity protection; although some improvements in the Canadian position might be desirable, these five Conventions do not appear to be appropriate targets for ratification. The remaining labour standards Convention provides for three-week holidays with pay after one year of service, a standard which is not yet met in any Canadian jurisdiction, nor in many collective agreements.

Canada has not yet ratified any of the *social security* Conventions although its standards of social security are relatively high. Some of the Conventions appear to be unduly lengthy and detailed.

Canada has not ratified any of the Conventions on *safety and health*, although the standards in most of them appear valid. There is a good deal of compliance with most of them, although improvements would be needed to permit ratification.

With respect to Conventions applying to *special categories* of

workers, Canada has for many years given special attention to the Conventions on *maritime workers* and *dockers* since these workers come within federal jurisdiction. Our position with respect to the ILO standards for seamen and dockers appears to be relatively good. We have ratified nine of the seventeen Conventions and ratification of others is contemplated.

Canada does not comply with the requirements of the Conventions on *agricultural workers*. There is a good deal of compliance with the Conventions on *fishermen*, *miners* and *indigenous and tribal populations*, and ratification of some of these may prove feasible.

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The foregoing analysis will have made it clear that Canada's position with respect to ILO Conventions cannot fairly be judged by the simple criticism that out of 138 Conventions Canada has ratified "only" 26.

In the first place, 138 ratifications is not a valid target, whether for Canada or for any other country. The target tentatively suggested in this analysis is no more than 66. Of this number Canada has ratified 20.

In the second place, even some of the "modern" Conventions contain requirements that are not considered appropriate to Canadian conditions. Unless revised, these Conventions cannot be regarded as targets for ratification by this country.

Thirdly, Canada is in substantial compliance with many of the remainder. Some of these may never be ratified, for technical or other reasons. Others may eventually be ratified following relatively minor changes in federal or provincial legislation.

Finally, however, there remain certain Conventions in which the ILO standard may be regarded as valid but not yet matched in Canada. Some of the Conventions on safety, social security and labour standards probably come within this category. This study has attempted to provide a factual basis for informed discussion as to which of the outstanding ILO Conventions constitute true targets for action in Canada.

**LIST OF ILO CONVENTIONS RATIFIED
BY CANADA TO DECEMBER 1973**

	Date Ratification Registered with ILO
No. 1 – Hours of Work (Industry), 1919 (First Session)	March 21, 1935
No. 7 – Minimum Age (Sea) 1920, (Second Session)	March 31, 1926
No. 8 – Unemployment Indemnity, 1920 (Second Session)	March 31, 1926
No. 14 – Weekly Rest (Industry), 1921 (Third Session)	March 21, 1935
No. 15 – Minimum Age (Trimmers and Stokers), 1921 (Third Session)	March 31, 1926
No. 16 – Medical Examination of Young Persons (Sea), 1921 (Third Session)	March 31, 1926
No. 22 – Seamen's Articles of Agreement, 1926 (Ninth Session)	June 30, 1938
No. 26 – Minimum Wage-Fixing Machinery, 1928 (Eleventh Session)	April 25, 1935
No. 27 – Marking of Weight (Packages Transported by Vessels), 1929 (Twelfth Session)	June 30, 1938
No. 32 – Protection Against Accidents (Dockers) (Revised), 1932 (Sixteenth Session)	April 6, 1946
No. 45 – Employment of Women on Under- ground Work in Mines of All Kinds, 1935 (Nineteenth Session)	Sept. 16, 1966
No. 58 – Minimum Age for Employment at Sea, 1936 (Twenty-Second Session)	Sept. 10, 1951
No. 63 – Statistics of Wages and Hours of Work, 1938 (Twenty-Fourth Session)	April 6, 1946
No. 68 – Food and Catering (Ships' Crews), 1946 (Twenty-Eighth Session)	March 19, 1951
No. 69 – Certification of Ships' Cooks, 1946 (Twenty-Eighth Session)	March 19, 1951
No. 73 – Medical Examination (Seafarers), 1946 (Twenty-Eighth Session)	March 19, 1951

No. 74 – Certification of Able Seamen, 1946 (Twenty-Eighth Session)	March 19, 1951
No. 80 – Final Articles Revision, 1946 (Twenty-Ninth Session)	—
No. 87 – Freedom of Association and Protec- tion of the Right to Organize, 1948 (Thirty-First Session)	March 23, 1972
No. 88 – Employment Service, 1948 (Thirty-First Session)	August 24, 1950
No. 100 – Equal Remuneration (Thirty-Fourth Session)	November 16, 1972
No. 105 – Abolition of Forced Labour, 1957 (Fortieth Session)	July 14, 1959
No. 108 – Seafarers' National Identity Documents (Forty-First Session)	May 31, 1967
No. 111 – Discrimination in respect of employ- ment and occupation, 1958 (Forty-Second Session)	Nov. 26, 1964
No. 116 – Partial Articles Revision, 1961 (Forty-Fifth Session)	April 5, 1962
No. 122 – Employment Policy, 1964 (Forty-Eighth Session)	Sept. 16, 1966

SUMMARY OF BENEFITS PROVIDED UNDER THE INTERNATIONAL LABOUR CODE

What benefits are provided under the International Labour Code?

In a country that fully applied the International Labour Code, a worker would in the first place enjoy certain basic rights and freedoms. He could not be subjected to forced labour. With his fellow workers he would have the right to establish or join a union without interference and with protection against acts of anti-union discrimination. The right of collective bargaining would be protected. He would enjoy equality of employment opportunity without discrimination based on race, colour, sex, religion, political opinion, national extraction or social origin. The principle of equal remuneration for men and women workers for work of equal value would be applied.

The government would maintain a full employment policy and would provide an employment service and training opportunities. The government would ban or regulate fee-charging employment agencies.

The following types of social security would be provided: medical care; sickness benefits; unemployment benefits; old age benefits; employment injury benefits; family benefits; maternity benefits; invalidity benefits; and survivors benefits. These benefits would be provided at rates set out in the various Conventions and under appropriate conditions.

Under the ILO Code a worker would be entitled to the forty-hour week, at least one day's rest in seven, three weeks' annual vacation after a year of service, and a wage at least equal to a minimum fixed by government authority in accordance with certain principles. He would be ensured of the full, prompt and unconditional payment of wages. Women would be entitled to a period of maternity leave of at least twelve weeks and also to cash and medical benefits. The minimum age for entry into employment would normally be at least 15 (higher in the case of hazardous occupations) and young persons would be given a medical examination before entering employment and would be protected against working at night.

In the field of occupational safety and health, workers would be protected against a variety of hazards such as unguarded machinery, exposure to radiation and various dangerous substances, and being required to carry unduly heavy loads. Governments would provide adequate labour inspection services.

Such vulnerable groups as migrant workers and native or indigenous workers would be entitled to special protection as needed and equal access to the benefits described above.

Finally the ILO Code contains a number of instruments designed to

meet the special needs of workers in particular industries or occupations such as agricultural workers, maritime workers, dockers, fishermen and miners.

